

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

-----:
 IN THE MATTER OF: :
 :
 All Souls, LLC :
 t/a All Souls :
 725 T Street NW :
 :
 License No. 88179 :
 ANC 1B :
 -----:

AUGUST 12, 2015

The Alcoholic Beverage Control Board met
 in the Alcoholic Beverage Control Hearing Room,
 Reeves Building, 2000 14th Street N.W., Washington,
 D.C., Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
 DONALD BROOKS, Member
 NICK ALBERTI, Member
 HECTOR RODRIGUEZ, Member
 MIKE SILVERSTEIN, Member
 JAMES SHORT, Member

 HERMAN JONES, Member

1 P-R-O-C-E-E-D-I-N-G-S

2 9:50 a.m.

3 CHAIRPERSON MILLER: Okay, next case is
4 Case No. 15-PRO-00063, All Souls, located at 725 T
5 Street, Northwest, License No. 88179, also in ANC 1B.

6 Okay, when you're ready, if you want to
7 start with introductions for this case.

8 MR. KLINE: Yes, good morning. Andrew
9 Kline here on behalf of the applicant, who is seated
10 to my left. Introduce yourself please.

11 MR. BATISTA: David Batista.

12 CHAIRPERSON MILLER: Okay, and over here?

13 MR. FOOTER: Brian Footer, Commissioner
14 for 1B-01, where the business resides.

15 CHAIRPERSON MILLER: Okay.

16 MS. SULLIVAN: Ellen Sullivan,
17 Commissioner for 1B-02, which my boundary is directly
18 -- is the street that All Souls is on.

19 CHAIRPERSON MILLER: Okay.

20 MS. SULLIVAN: So, directly across the
21 street.

22 CHAIRPERSON MILLER: You're not -- are you

1 here with the ANC?

2 MS. SULLIVAN: Yes.

3 CHAIRPERSON MILLER: Okay.

4 MR. MAYES: Stanley Mayes, I'm the
5 abutting property owner to the location of the
6 licensee.

7 CHAIRPERSON MILLER: Okay, I have in my
8 notes, are you a designated representative of the
9 group of five or more?

10 MR. MAYES: I am.

11 CHAIRPERSON MILLER: You are, and I also
12 have in my notes that two or more individuals need to
13 appear at this hearing, in order to receive standing
14 for the group of five.

15 MR. MAYES: One is here. Mr. Victor. You
16 want to -- Madam Chair?

17 CHAIRPERSON MILLER: Yes.

18 MR. MAYES: One of the applicants -- I
19 mean, one of the Protestants, Norman Wood is at
20 dialysis, he's at dialysis today, and was unable to be
21 here. We expect -- the expectation, that others will
22 be here.

1 CHAIRPERSON MILLER: Okay, let me just --

2 MR. MAYES: Please identify yourself.

3 CHAIRPERSON MILLER: Yes.

4 MR. WOODS: My name is Victor Vasquez.

5 CHAIRPERSON MILLER: Mr. Mayes, can you

6 tell me who appeared at the roll call?

7 MR. MAYES: Esther Lane.

8 CHAIRPERSON MILLER: Okay.

9 MR. MAYES: Myself.

10 CHAIRPERSON MILLER: Yes.

11 MR. MAYES: Victor, are the three people

12 who were present at that time.

13 MEMBER SHORT: Please speak up, Mr. Mayes.

14 MR. MAYES: Esther Lane.

15 CHAIRPERSON MILLER: Yes.

16 MR. MAYES: Myself.

17 CHAIRPERSON MILLER: Thank you.

18 MR. MAYES: And Victor were all present at

19 that time.

20 CHAIRPERSON MILLER: So, Victor was

21 present. This is Mr. Victor Vasquez, right?

22 MR. MAYES: Yes.

1 CHAIRPERSON MILLER: Okay, so, you were
2 there? So, it says in my notes, that two more who
3 weren't at the status hearing, need to appear today,
4 and you stated that one -- who was that, is on
5 dialysis?

6 MR. MAYES: Yes, so, husband and wife.
7 The husband is at dialysis and his wife stayed, you
8 know, is always there for him. They're both elderly
9 and she's always there for him.

10 So, she -- if he couldn't be here, she
11 would not be here, because she has to make sure when
12 he comes in from dialysis, that there's someone -- and
13 they live alone, so that is --

14 CHAIRPERSON MILLER: Who was that?

15 MR. MAYES: Her name is -- this is Mrs.
16 Wood.

17 CHAIRPERSON MILLER: Mrs. Who?

18 MR. MAYES: Juanita Wood.

19 CHAIRPERSON MILLER: Juanita Wood?

20 MR. MAYES: Yes.

21 CHAIRPERSON MILLER: Juanita Wood is with
22 Mr. Wood?

1 MR. MAYES: Yes.

2 CHAIRPERSON MILLER: Is that it?

3 MR. MAYES: That would be Norman Wood and
4 Juanita Wood.

5 CHAIRPERSON MILLER: Okay, all right,
6 that's who you're referring to?

7 MR. MAYES: Yes.

8 CHAIRPERSON MILLER: How about, I see
9 Maurice Webster and Hazel Spicer are listed?

10 MR. MAYES: I was not the designated
11 representative. Esther Lane was the designated
12 representative for them.

13 CHAIRPERSON MILLER: Okay.

14 MR. MAYES: But so, I am not -- I'm have
15 -- so, she has been in contact with them, not me.

16 CHAIRPERSON MILLER: She what?

17 MR. MAYES: I said she has been in contact
18 --

19 CHAIRPERSON MILLER: She's not here today
20 though?

21 MR. MAYES: Correct.

22 CHAIRPERSON MILLER: Okay.

1 MR. MAYES: In answer to your question, I
2 was not in contact with them, so, I cannot tell you --

3 CHAIRPERSON MILLER: Okay, all right. So,
4 then --

5 MR. KLINE: Madam Chair, if I may?

6 CHAIRPERSON MILLER: Yes.

7 MR. KLINE: In any event, I would like to
8 inform the Board, because it's relevant to this issue,
9 that the applicant has reached an agreement with the
10 Advisory Neighborhood Commission.

11 CHAIRPERSON MILLER: Okay.

12 MR. KLINE: So, assuming that that
13 agreement is accepted by the Board, then in due
14 course, the group of five is going to be dismissed
15 anyway.

16 CHAIRPERSON MILLER: Okay.

17 MR. KLINE: So, to the extent that that
18 saves time.

19 CHAIRPERSON MILLER: Okay, all right. It
20 appears to me, that the group of five should be
21 dismissed, based on not producing the additional two
22 people.

1 I understand -- I sympathize, with respect
2 to the dialysis argument.

3 MR. MAYES: Yes.

4 CHAIRPERSON MILLER: And there are two
5 other people though, that should have been here. But
6 it also may be moot, at this point, it may become
7 moot.

8 Do you have a signed agreement or you --

9 MR. KLINE: Yes.

10 CHAIRPERSON MILLER: You have a signed
11 agreement?

12 MR. KLINE: Yes.

13 MR. FOOTER: We submitted it to your
14 office.

15 CHAIRPERSON MILLER: Okay, okay. Any
16 comments? Any other comments on this, this standing
17 issue?

18 MEMBER SILVERSTEIN: Madam Chair?

19 CHAIRPERSON MILLER: Yes.

20 MEMBER SILVERSTEIN: I would take note of
21 the American's with Disabilities Act and the fact is
22 that we are required to provide a reasonable

1 accommodation.

2 There was no documentation, however, and
3 this will be moot, if the voluntary agreement, if the
4 settlement agreement has -- is approved by the Board.
5

6 If it is not, then the will go to protest,
7 I would -- I would consider -- reconsider my vote, if
8 it can proven that this people were, in fact,
9 incapacitated because of a disability, and that we did
10 not provide the reasonable accommodation.

11 Federal law trumps, but in this case, we
12 should move forward expeditiously, move this case off
13 our calendar and if things move as we hope they do,
14 then this matter will be moot.

15 CHAIRPERSON MILLER: Okay, any other
16 comments? Okay, so, if I understand you, Mr.
17 Silverstein, you're suggesting that we move to dismiss
18 the protest for lack of standing, at this point, and
19 we would entertain a motion for reconsideration if
20 there is further argument they wish to make, with
21 respect to why the two individuals weren't here, and
22 that may become moot in any event, upon approval of a

1 settlement agreement, but that hasn't been done yet,
2 between the ANC and applicant.

3 All right, so, then I would move to
4 dismiss the protest.

5 MEMBER SILVERSTEIN: I'd like to second
6 that, Madam Chair.

7 CHAIRPERSON MILLER: Okay, all those in
8 favor, say aye.

9 (Chorus of ayes.)

10 CHAIRPERSON MILLER: All those opposed?

11 (No audible response.)

12 CHAIRPERSON MILLER: All those abstaining?

13 (No audible response.)

14 CHAIRPERSON MILLER: The motion passes 6-
15 0-0. Okay, any questions?

16 All right, then that completes this case.
17

18 MR. KLINE: Madam Chair, I'm hoping that
19 we're going to set a date for protest hearing.

20 CHAIRPERSON MILLER: For what?

21 MR. KLINE: Protest hearing.

22 CHAIRPERSON MILLER: What's to protest?

1 MR. KLINE: We still have an adjacent
2 property owner.

3 CHAIRPERSON MILLER: I'm sorry. I'm
4 sorry, I missed that, okay.

5 Okay, I've just -- was reminded, we have
6 an other protest by an abutting property owner, and
7 that's you, Mr. Mayes.

8 So, therefore, we're going to set a date
9 for the hearing, for the protest, and that's September
10 9th, 2015 at 4:30 p.m., and I'm going to also remind
11 you all about the protest information forms and the
12 exhibit forms, which are critical to the hearing
13 process.

14 You'll get those forms in advance of the
15 hearing. If you don't receive one of the -- either of
16 those forms within 10 days of the hearing, contact the
17 office, because you need to fill them out and provide
18 copies of these forms to -- on opposing parties, and
19 upon the Board.

20 The protest information form will have you
21 identify the issues that are still remaining in the
22 case, and the witnesses that you intend to present by

1 name, not by description, and you will also have an
2 exhibit form you need to serve on the Board and the
3 parties within seven days of the hearing.

4 That exhibit form will identify all your
5 exhibits that you intend -- or you think you're going
6 to submit or offer into evidence at the hearing, and
7 then it will be a list, and also, the exhibits
8 themselves have to be served on everyone.

9 The purpose of this is so that there is a
10 focused hearing. There is no surprises. Everybody
11 has a clear understanding of what is going to be
12 litigated, and if you don't provide that information,
13 there's a chance that your exhibits or your witnesses
14 might be excluded for -- because it will be prejudice
15 -- it could be prejudicial to the other side, if that
16 make that form -- because they didn't have that
17 information, they weren't able to prepare well enough.

18 Also, if you should -- it's shown that you
19 could have provided that information, but you didn't
20 have a good reason not to.

21 So, if you have any questions prior to the
22 hearing, you can contact Attorney Janea Raines at 442-

1 4353.

2 MR. MAYES: Could you repeat that number
3 again?

4 CHAIRPERSON MILLER: Sure, 442-4353. Any
5 other questions? Yes?

6 MR. MAYES: What form am I -- and in what
7 -- what form am I to receive the exhibit and witness
8 list information, because to date --

9 CHAIRPERSON MILLER: Okay.

10 MR. MAYES: -- to date, I have never
11 received a notice from the ABC Board that they -- as
12 an abutting property owner.

13 I was aware, because I am an abutting
14 property owner --

15 CHAIRPERSON MILLER: Right.

16 MR. MAYES: -- but you know, in terms of
17 a formal communication, I wasn't aware that the other
18 members of the group of five received things. I never
19 received anything.

20 CHAIRPERSON MILLER: Okay.

21 MR. MAYES: From the ABC Board. After our
22 initial roll call hearing, I received an email stating

1 what this date was, and what our negotiation date was
2 and this date, but -- and I just want to be certain
3 that I'm not waiving time, waiting on something that
4 I might not ever get. So, I want to make sure that I
5 go on the record. I never received anything, and I
6 want to make sure that --

7 CHAIRPERSON MILLER: Okay.

8 MR. MAYES: -- I can find out today, how
9 I am to get that information, so that if it doesn't
10 happen, I am aware of it.

11 CHAIRPERSON MILLER: Okay, I believe it's
12 by email. General Counsel is not here right now. I
13 don't send them out personally, but I believe it's by
14 email.

15 But I think at this point, the Agency
16 specifically, Martha Jenkins, who is our General
17 Counsel, should have your email address and whatever
18 other address you may have given, contact information
19 at roll call. I think there is sometimes an issue
20 before roll call, because all the contact information
21 hasn't been gathered from people.

22 But at this point if you've gotten the

1 last notice, they have your email address, and if you
2 have any concerns, call Ms. Raines.

3 MR. MAYES: Yes, well, I hear that and I
4 appreciate that. They did have my email and I'm not
5 unknown to the ABC Board.

6 In addition to that, at the time that I
7 filed the initial protest, all my information was
8 included in a written document, hand-delivered to this
9 location, but I never received anything, and then I
10 was aware from another abutting property owner, who
11 also says she never received anything, I said, "I
12 didn't either," and so, I was -- so, that raised a
13 particular concern for me, because I was aware that
14 Victor and others in the group of five, did receive
15 something from your offices, but I never received
16 anything --

17 CHAIRPERSON MILLER: Okay.

18 MR. MAYES: -- and I'm right next door.
19 So, I would --

20 CHAIRPERSON MILLER: Did you receive
21 something to be here today?

22 MR. MAYES: I received an subsequent --

1 after the initial roll call hearing, I received an
2 email, saying what the negotiation date was --

3 CHAIRPERSON MILLER: Okay.

4 MR. MAYES: -- and this date. I received
5 those things, and I received them by email. Prior to
6 that, I received nothing. So, I'm not certain it
7 wasn't -- of course in my mind, one time I get
8 something, sometimes, I don't get anything.

9 CHAIRPERSON MILLER: Okay.

10 MR. MAYES: And I don't want to get in a
11 situation where I'm back here and I say -- and
12 somebody raises a question, "You didn't respond to
13 that."

14 CHAIRPERSON MILLER: Okay.

15 MR. MAYES: And I say, "I never received
16 it." So, I'm putting that on the record today.

17 CHAIRPERSON MILLER: Okay, that is --

18 MR. MAYES: That there is a question, as
19 to whether or not I'm being properly communicated
20 with.

21 CHAIRPERSON MILLER: Okay. So, I will
22 just say to you then, you might to contact Ms. Raines

1 and make sure she has the information she needs, so
2 that you get those forms, because they're critical,
3 and if you don't get them within two weeks ahead of
4 the hearing, I would call Ms. Raines.

5 MR. MAYES: Okay.

6 CHAIRPERSON MILLER: Okay, and I'm sorry
7 about that, with the notice. I think that's something
8 that's an important issue, and you should look into
9 it, okay?

10 MR. MAYES: I should look into it?

11 CHAIRPERSON MILLER: No, we should. If
12 there's a notice problem, we'll look into our office
13 procedures and see, but I'm sorry, you know, I don't
14 know what happened, but from this date forward, you
15 know who you can contact and you know that you should
16 be getting this information -- protest information
17 form and exhibit form. So, at the hearing, you should
18 not say, "I didn't get it."

19 MR. MAYES: I'm not. I don't -- that's
20 what I don't want --

21 CHAIRPERSON MILLER: Okay.

22 MR. MAYES: Because I don't want to have

1 a breech of a date --

2 CHAIRPERSON MILLER: Okay.

3 MR. MAYES: -- or something else, because
4 I something --

5 CHAIRPERSON MILLER: Okay.

6 MR. MAYES: -- something I thought I was
7 going to get --

8 CHAIRPERSON MILLER: That's right, so, you
9 know you're suppose to get this and you know the
10 person you're going to contact.

11 MR. MAYES: Okay.

12 CHAIRPERSON MILLER: And you know, and
13 everything should go smoothly, but if it doesn't,
14 contact Ms. Raines.

15 MR. MAYES: Okay.

16 CHAIRPERSON MILLER: All right, anything
17 else?

18 MR. KLINE: No.

19 CHAIRPERSON MILLER: Okay, all right,
20 then, thank you all very much.

21 (Whereupon, the above-entitled matter went
22 off the record at 10:05 a.m.)

| | | | |
|--|--|--|---|
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